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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,480	10/17/2006	Adam Schloesser	013869-9006-01	8740
23409 7590 04/25/2011 MICHAEL BEST & FRIEDRICH LLP 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202				
EXAMINER				
HICKS, VICTORIA J				
ART UNIT		PAPER NUMBER		
3772				
MAIL DATE		DELIVERY MODE		
04/25/2011		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/567,480

**Applicant(s)**

SCHLOESSER ET AL.

**Examiner**

VICTORIA HICKS

**Art Unit**

3772

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 November 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 November 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-945)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This action is in response to the Request for Continued Examination (RCE) filed on 11/4/10. Claim 1 was cancelled by Applicant. No amendments were made to the claims.

#### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/4/10 has been entered.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 3, 4, 8, 10, 14 and 21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. These claims were

amended to recite the "substantial" shape and direction of device structures. No support has been provided in the specification for these claim limitations.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 20 recites "a first assembly," "a second assembly" and "a third assembly." It is unclear if these first, second and third assemblies are the same as those recited in claim 19 (upon which claim 20 is dependent). For purposes of examination, the first, second and third assemblies of claim 20 will be considered to be the same structure as those recited in claim 19.

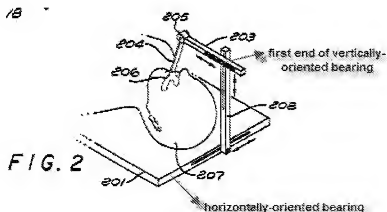
### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 2, 5-7, 9 and 11-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Cosman (US 5,947,981).

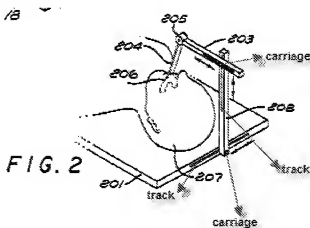
In regards to claim 2, Cosman teaches in Figure 2 and column 3, lines 37-47 a frame (203, 204, 205); a projection (206) extending from one end of the frame (203, 204, 205), the projection (206) defining a pivot point; a first assembly connectable to a second end of the frame (203, 204, 205), the first assembly including a vertically-oriented bearing (202) having a first end and a second end, the first end extending through an opening in the frame (203, 204, 205), the second end of the frame (203, 204, 205) configured to move along the vertically-oriented bearing (202) to provide a first range of motion of the frame (203, 204, 205) relative to the couch (201) about the pivot point; and a second assembly including a horizontally-oriented bearing, the second end of the vertically-oriented bearing (202) configured to move along the horizontally-oriented bearing to provide a second range of motion of the frame (203, 204, 205) relative to the couch (201) about the pivot point.



In regards to claim 5, Cosman teaches the apparatus of claim 2. Cosman teaches in Figure 2 and column 3, lines 37-47 that the first range of motion comprises one of a pitch rotation, a roll rotation, and a yaw rotation and the second range of motion comprises one of a pitch rotation, a roll rotation, and a yaw rotation.

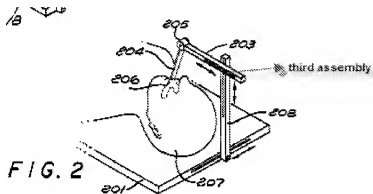
In regards to claim 6, Cosman teaches the apparatus of claim 2. Cosman teaches in Figure 2 and column 3, lines 37-47 that the first range of motion is different than the second range of motion.

In regards to claim 7, Cosman teaches the apparatus of claim 2. Cosman teaches in Figure 2 and column 3, lines 37-47 that the first assembly comprises a track and a carriage connected to the frame (203, 204, 205), the carriage adapted to move along the track (see annotated copy of Figure 2 below).



In regards to claim 9, Cosman teaches the apparatus of claim 2. Cosman teaches in Figure 2 and column 3, lines 37-47 that the second assembly comprises a track and a carriage adapted to move along the track (see annotated copy of Figure 2 above).

In regards to claim 11, Cosman teaches the apparatus of claim 2. Cosman teaches in Figure 2 and column 3, lines 37-47 a third assembly connectable to the second end of the frame (203, 204, 205), the third assembly operable to provide a third range of motion of the frame (203, 204, 205) relative to the couch (201) about the pivot point.



In regards to claim 12, Cosman teaches the apparatus of claims 2 and 11. Cosman teaches in Figure 2 and column 3, lines 37-47 that the third range of motion comprises one of a pitch rotation, a roll rotation, and a yaw rotation.

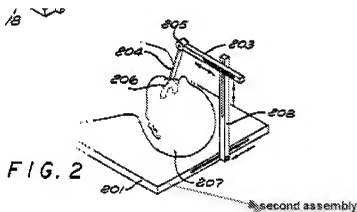
In regards to claim 13, Cosman teaches the apparatus of claims 2 and 11. Cosman teaches in Figure 2 and column 3, lines 37-47 that the third range of motion is different than the first range of motion.

In regards to claim 14, Cosman teaches the apparatus of claims 2 and 11. Cosman teaches in Figure 2 and column 3, lines 37-47 the second assembly comprises a track and a carriage adapted to move in a substantially horizontal direction along the track, and wherein the third assembly comprises a shaft (203) having a first end connectable to (the shaft is integral with and therefore, is connectable to the frame) the frame (203, 204, 205) and a second end connectable to carriage the second assembly (via vertically-oriented bearing 202), the second end of the shaft (203) adapted to be pivotable with respect to the carriage of the second assembly.

In regards to claim 15, Cosman teaches the apparatus of claims 2, 11 and 14. Cosman teaches in Figure 2 and column 3, lines 37-47 that the third assembly provides

roll movement of the frame (203, 204, 205) relative to the couch (201) as the second end of the shaft (203) pivots with respect to the carriage of the second assembly.

In regards to claim 16, Cosman teaches in Figure 2 and column 3, lines 37-47 a frame (203, 204, 205) adapted to support a body part, the frame (203, 204, 205) having a first axis; a first assembly (202) adapted to move the body part about the first axis; a second assembly adapted to move the body part about a second axis oriented perpendicular with respect to the first axis; and a third assembly (203) adapted to move the body part about a third axis oriented perpendicular with respect to the first axis and the second axis.



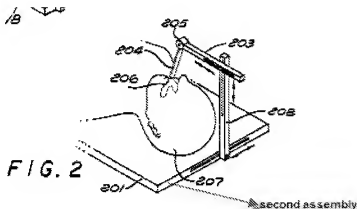
In regards to claim 17, Cosman teaches the apparatus of claim 16. Cosman teaches in Figure 2 and column 3, lines 37-47 that the first axis, the second axis, and the third axis intersect at a common point. All axes, by nature, intersect at a common point.

In regards to claim 18, Cosman teaches the apparatus of claim 16. Cosman teaches in Figure 2 and column 3, lines 37-47 a component (206) extending from one end of the frame (203, 204, 205), the component (206) defining a pivot point, and



wherein the first assembly (202) is operable to provide pitch movement of the body part about the pivot point, and wherein the second assembly is operable to provide yaw movement of the body part about the pivot point, and wherein the third assembly (203) is operable to provide roll movement of the body part about the pivot point.

In regards to claim 19, Cosman teaches in Figure 2 and column 3, lines 37-47 a frame (203, 204, 205), at least a portion of which is connected (via vertical element 202) to the couch (201), the frame (203, 204, 205) including a component (206) extending from the frame (203, 204, 205), a first assembly (202) coupled to the frame (203, 204, 205), a second assembly coupled to the frame (203, 204, 205), and a third assembly (203) coupled to (the assembly 203 is integral with and therefore, is coupled to the frame 203, 204, 205) the frame (203, 204, 205), the component (206) defining a pivot point remote from the first assembly (202), the second assembly, and the third assembly (203), the component (206) and the first assembly (202) configured to provide pitch movement, the component (206) and the second assembly configured to provide yaw movement, and the component (206) and the third assembly (203) configured to provide roll movement of the frame (203, 204, 205) relative to the couch (201) about the pivot point.



In regards to claim 20, Cosman teaches the apparatus of claim 19. Cosman teaches in Figure 2 and column 3, lines 37-47 a first assembly (202) connectable to the frame (203, 204, 205) and adapted to provide the pitch movement of the frame (203, 204, 205) relative to the couch (201) about the pivot point, and further comprising a second assembly connectable to the first assembly (202) and adapted to provide the yaw movement of the frame (203, 204, 205) relative to the couch (201) about the pivot point, and further comprising a third assembly (203) connectable to the first assembly (202) and the second assembly and adapted to provide the roll movement of the frame (203, 204, 205) relative to the couch (201) about the pivot point.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 4, 8, 10 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cosman (US 5,947,981).

In regards to claim 3, Cosman teaches the apparatus of claim 2. Cosman teaches in column 3, lines 48-51 that the projection (206) can have many variations. However, Cosman does not teach the projection being substantially spherical-shaped. It would have been obvious to one having ordinary skill in the art at the time of invention to provide the projection being substantially spherical-shaped, since it has been held that a change in the shape of a prior art device is a design consideration within the skill of the art. *In re Dailey*, 357 F. 2d 669, 149 USPQ 47 (CCPA 1966).

In regards to claim 4, Cosman teaches the apparatus of claim 2. Cosman teaches in column 3, lines 48-51 that the projection (206) can have many variations. However, Cosman does not teach the projection being substantially semi-spherical-shaped. It would have been obvious to one having ordinary skill in the art at the time of invention to provide the projection being substantially semi-spherical-shaped, since it has been held that a change in the shape of a prior art device is a design consideration within the skill of the art. *In re Dailey*, 357 F. 2d 669, 149 USPQ 47 (CCPA 1966).

In regards to claim 8, Cosman teaches the apparatus of claims 2 and 7. Cosman teaches in Figure 2 and column 3, lines 37-47 that the track is oriented in a substantially vertical plane, the first assembly providing a pitch movement of the frame (203, 204, 205) relative to the couch (201) as the carriage moves along the track in a substantially vertical direction. Cosman discloses the claimed invention except for the track being arcuately-shaped. It would have been obvious to one having ordinary skill in the art at

the time of invention to provide the track being arcuately-shaped, since it has been held that a change in the shape of a prior art device is a design consideration within the skill of the art. *In re Dailey*, 357 F. 2d 669, 149 USPQ 47 (CCPA 1966).

In regards to claim 10, Cosman teaches the apparatus of claims 2 and 9. Cosman teaches in Figure 2 and column 3, lines 37-47 that the track is oriented in a substantially horizontal plane, the second assembly providing yaw movement of the frame (203, 204, 205) relative to the couch (201) as the moves along the track in a substantially horizontal direction. Cosman discloses the claimed invention except for the track being arcuately-shaped. It would have been obvious to one having ordinary skill in the art at the time of invention to provide the track being arcuately-shaped, since it has been held that a change in the shape of a prior art device is a design consideration within the skill of the art. *In re Dailey*, 357 F. 2d 669, 149 USPQ 47 (CCPA 1966).

In regards to claim 21, Cosman teaches the apparatus of claim 19. Cosman teaches in column 3, lines 48-51 that the projection (206) can have many variations. However, Cosman does not teach the projection being substantially spherical-shaped. It would have been obvious to one having ordinary skill in the art at the time of invention to provide the component being substantially spherical-shaped, since it has been held that a change in the shape of a prior art device is a design consideration within the skill of the art. *In re Dailey*, 357 F. 2d 669, 149 USPQ 47 (CCPA 1966).

***Response to Arguments***

Applicant's amendment to the drawings is sufficient to overcome the examiner's previous objection to the drawings.

Applicant's arguments with respect to the rejection of claims 3, 4, 8, 10, 14 and 21 under 35 U.S.C. 112, first paragraph have been fully considered but they are not persuasive. Applicant's argues that the substitution of *substantially* for *generally* in the claims does not introduce new matter into the claims. The examiner respectfully disagrees. *Substantially* and *generally* have different definitions and therefore, cause the claims to encompass different scopes. For instance, *generally* can be defined to mean "in a general manner" or "usually," while *substantially* can be defined to mean "considerable in quantity." Applicant failed to amend claims 3, 4, 8, 10, 14 and 21 in order to overcome the previous rejection of claims 3, 4, 8, 10, 14 and 21 under 35 U.S.C. 112, first paragraph. The rejection has therefore, been maintained.

Applicant's arguments with respect to the rejection of the claims under 35 U.S.C. 102 and 103 have been considered but are moot in view of the new ground(s) of rejection. New ground(s) of rejection has been made in view of Cosman (US 5,947,981).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTORIA HICKS whose telephone number is (571)270-7033. The examiner can normally be reached on Monday through Thursday, 7:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571) 272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. H./  
Examiner, Art Unit 3772  
4/19/11

/Patricia Bianco/  
Supervisory Patent Examiner, Art Unit 3772